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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,887	12/27/2001	Todd Lagimonier	003636.0114	1873

7590 06/06/2007
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WASHINGTON, DC 20016

EXAMINER

CALDWELL, ANDREW T

ART UNIT	PAPER NUMBER
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2142

MAIL DATE	DELIVERY MODE
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06/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/026,887	Applicant(s) LAGIMONIER ET AL.	
	Examiner Andrew Caldwell	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9 and 19-20, drawn to a process for sending service requests in a client/server environment, classified in class 709, subclass 203.
- II. Claims 10-18 and 21-25, drawn to a particular apparatus for sending service requests in a client/server environment, wherein the apparatus includes a service-chaining module, classified in class 709, subclass 203.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process of Invention I can be practiced by another materially different apparatus other than the apparatus of Invention II. For instance, the process of invention I could be practiced by a message oriented middleware system that doesnot include a service-chaining module as claimed in the apparatus of Invention II. Alternatively, the process of invention I could be practiced by a load balancing system.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above

1 and there would be a serious search and examination burden if restriction were not
2 required because one or more of the following reasons apply:

3 (a) the inventions have acquired a separate status in the art in view of their
4 different classification;

5 (b) the inventions have acquired a separate status in the art due to their
6 recognized divergent subject matter;

7 (c) the inventions require a different field of search (for example, searching
8 different classes/subclasses or electronic resources, or employing different
9 search queries);

10 (d) the prior art applicable to one invention would not likely be applicable to
11 another invention;

12 (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C.
13 101 and/or 35 U.S.C. 112, first paragraph.

14 In this case, the search for Invention I would require consideration of class 709
15 subclass 229 and class 709 subclass 226 while the search for Invention II would not.

16 **Applicant is advised that the reply to this requirement to be complete must**
17 **include (i) an election of a invention to be examined even though the requirement**
18 **may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing**
19 **the elected invention.** The examiner would remind the applicants that they could
20 amend the claims of group I to appropriately link the inventions. Any amendments to
21 the process claims would have to clarify that the process of Invention I is necessarily

1 practiced by the apparatus of Invention II. In that case, the reply would have to specify
2 that the claims of Invention II (i.e., claims 10-18 and 21-25) were elected.

3 The election of an invention may be made with or without traverse. To reserve a
4 right to petition, the election must be made with traverse. If the reply does not distinctly
5 and specifically point out supposed errors in the restriction requirement, the election
6 shall be treated as an election without traverse. Traversal must be presented at the time
7 of election in order to be considered timely. Failure to timely traverse the requirement
8 will result in the loss of right to petition under 37 CFR 1.144. If claims are added after
9 the election, applicant must indicate which of these claims are readable on the elected
10 invention.

11 If claims are added after the election, applicant must indicate which of these
12 claims are readable upon the elected invention.

13 Should applicant traverse on the ground that the inventions are not patentably
14 distinct, applicant should submit evidence or identify such evidence now of record
15 showing the inventions to be obvious variants or clearly admit on the record that this is
16 the case. In either instance, if the examiner finds one of the inventions unpatentable
17 over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.
18 103(a) of the other invention.

19 Applicant is reminded that upon the cancellation of claims to a non-elected
20 invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one
21 or more of the currently named inventors is no longer an inventor of at least one claim

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1 remaining in the application. Any amendment of inventorship must be accompanied by
2 a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).


3
4 **Conclusion**

5
6 Any inquiry concerning this communication or earlier communications from the
7 examiner should be directed to Andrew Caldwell, whose telephone number is (571)
8 272-3868. The examiner can normally be reached on M-F from 9:00 a.m. to 5:30 p.m.
9 EST.

10
11 The fax number for Group 2100 is as follows:

12
13 Fax Responses: 571-273-8300
14

15 Any general inquiry relating to the status of this application can be answered
16 using Patent Application Information Retrieval (PAIR) system, which is available at the
17 USPTO web site. Any questions on using the PAIR system should be directed to the
18 Patent Electronic Business Center toll free at (866) 217-9197.
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23
24 Andrew Caldwell
25 571-272-3868
26 July 18, 2005
27
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